

ARTICLE VIII: GAMING

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DIVISION 1. GENERALLY

§ 1-2-101. PURPOSE, APPLICATION, AND OPERATION.

(A) The following provisions regulate and control gaming within Frederick County. The purpose of these provisions includes the protection of the public.

(B) All types of gaming not specifically allowed within these provisions of state law are prohibited.

(C) The provisions of this article shall apply to all permitted gaming activities in Frederick County. (Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993)

§ 1-2-102. DEFINITIONS.

All terms used in this article shall have their ordinary meaning unless specially defined herein.

AMATEUR ATHLETIC ORGANIZATION. An organization organized and operated to promote nonprofessional sports or athletics.

BONA FIDE. True, correct, and genuine; in referring to an organization this requires an actual and primary purpose of carrying out 1 or more of the types of purposes, or activities, specified within this article or under state law.

CHARITABLE ORGANIZATION. An organization, institution, association, society, or corporation that holds itself out to be a benevolent, education, philanthropic, humane, patriotic or religious organization and solicits or obtains contributions for charitable purposes. It does not include a political party, political committee, political club, or an agency of the state government or of a political subdivision.

CIVIC ORGANIZATION. A not-for-profit organization organized and operated exclusively for the promotion of social welfare. An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in

some way the common good and general welfare of the people of the community. A civic organization is operated primarily for the purpose of bringing about civic betterments and social improvements.

CONVICTION. A finding by a trier of fact of guilt, a guilty plea, or an accepted nolo contendere plea. Probation before judgment does not constitute a conviction.

COUNTY. Frederick County, Maryland.

DIRECTOR OF PERMITS AND INSPECTIONS. The Frederick County Director of Permits and Inspections and any employee of the Department of Permits and Inspections designated by the Director to perform any act incident to these gaming provisions.

DISTRIBUTOR. Individual or entity providing tip jars, punchboards, chance games, boards, tables, or other gaming devices.

EDUCATIONAL ORGANIZATION. Entity or association concerned with or working to advance education, including, but not limited to, P.T.A.'s, band boosters, parent organizations, and student organizations.

FRATERNAL ORGANIZATION.

(1) Any organization that:

(a) Is conducted solely for the benefit of its members and its beneficiaries;

(b) Is operated on a lodge system with a ritualistic activity; and

(c) Has a representative form of government;

(2) Includes a sororal organization; and

(3) Does not include:

(a) Any college or high school fraternity or sorority; or

(b) Any other fraternal or sororal organization the membership of which is restricted wholly or largely to students or graduates of an educational institution or a professional school.

GAMING DEVICE. Any game of chance played for money or prizes. Includes, but is not limited to, tip jar, punchboard, chance book, wheel of fortune, paddlewheel, or any other device or item where chance controls the results. Does not include bingo.

GAMING EVENT. Any bazaar, carnival, raffle, tip jar, punchboard, or other game of chance.

HOSPITAL. An institution that:

(1) Has a group of at least 5 physicians who are organized as a medical staff for the institution;

(2) Maintains facilities to provide, under the supervision of the medical staff, diagnostic and treatment services for 2 or more unrelated individuals; and

(3) Admits or retains the individuals for overnight care.

ISSUING AGENCY/ISSUER. Entity designated by the Board of County Commissioners of Frederick County to issue, approve, and review permits and licenses.

LEGAL RESIDENT.

(1) **PERSON.** Individual residing in Frederick County.

(2) **CORPORATION or OTHER ENTITY.** More than doing business in the county. Having a substantial and significant place of business within the county. Includes any volunteer fire, rescue or ambulance company which has a first due response area in Frederick County or which owns property in Frederick County.

MEMBERS. Individuals belonging to 1 or more of the organizations who satisfy all requirements for acceptances as a full member of the organization.

Honorary members will not satisfy definitional requirements. In general, members must exist on membership rolls for a minimum of 6 months prior to the event to be eligible to participate in gambling endeavors. However, short-term members will satisfy membership requirements where special circumstances exist. (For example, a bona fide charitable organization which has only been in existence for less than 6 months.)

OFFICE. A place of business within the county. More than a mere presence indicated by a post office box or telephone number. Actual, active working space, staffed at least part-time.

OPERATOR. Individual or entity conducting or operating the gaming event.

ORGANIZATION. Any bona fide, membership controlled group with a nonprofit status.

PATRIOTIC ORGANIZATION. An organization operated and organized to promote or demonstrate love and devotion to one's country.

PROCEEDS. All receipts received as a result of a tip jar or punchboard minus only:

- (1) Winnings paid to players; and
- (2) The cost of the tip jar or punchboard itself.

RAFFLE. A purchased chance entitling the bearer to the right to a prize if the bearer's chance is randomly selected as a winner.

RELIGIOUS ORGANIZATION. An organization operated and organized to promote any church, religious society or congregation of any sect, order or denomination.

VOLUNTEER FIRE, RESCUE, AMBULANCE OR AUXILIARY GROUPS. Community entities providing volunteer services within Frederick County for fire and rescue protection or any entity attached to fire and rescue or a related service entity.

WAR VETERANS' ORGANIZATION. An organization whose membership consists primarily of persons who have served in the armed forces of the United States during a period of war (including the Korean and Vietnam conflicts) and their spouses, widows or widowers. The primary purpose of the organization must be 1 or more of the following:

- (1) To provide service or assistance to veterans, members of the armed forces or their spouses or dependents;
- (2) To promote the social welfare of the community;
- (3) To perpetuate the memory of deceased veterans and members of the armed forces;
- (4) To conduct charitable, educational or patriotic services; or
- (5) To provide social and recreational activities for its members.

50/50 GAME. A drawing entirely conducted at a single meeting or event of an organization from a finite number of chances or tickets which are sold only at the meeting or event and where the proceeds from the sale of the chances or tickets are evenly split between the winner(s) and the organization sponsoring the game.
(Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993)

§ 1-2-103. GAME GENERALLY.

The following provisions apply to all permits, all bingo games, and all types of gaming events and devices. Additional requirements applying to bingo and to individual types of gaming events or devices are found in subsequent sections.

(A) Unless specifically allowed in these provisions or in state law, all gaming is forbidden in Frederick County.

(B) Provided all legal requirements are met, bingo games and the following gaming events are permitted under these gaming laws:

- (1) Raffles;
- (2) Tip jars;
- (3) Punchboards;
- (4) Wheels of fortune;
- (5) Chance books;
- (6) Paddle wheels;

(7) Door prizes and 50/50 games (no permit required).

(C) The organization receiving the money or other receipts from a gaming event or bingo game must use the money or other receipts for the organization's benefit or other charitable purpose in Frederick County.

(D) No individual may personally benefit from an event except as provided for operators of tip jars/punchboards described in § 1-2-107(E)(2) and except for prizes awarded to participants.

(E) Persons, organizations, or operators are ineligible to apply for or possess a permit if the organization or any individual directly responsible for the operation of the gaming event or bingo game has been:

- (1) Convicted of a felony; or

(2) Convicted of a misdemeanor in any way related to gaming or gambling within 5 years of the application submission.

(F) Only religious, fraternal, civic, war veterans, hospital, amateur athletic, patriotic, educational, or charitable organization, or a county volunteer fire, rescue, or ambulance company or its auxiliary may conduct gaming events under these

provisions except for a licensed food and beverage establishment authorized to conduct tip jars or punchboards under § 1-2-107.

(G) All records regarding all bingo games and gaming events must be made available for inspection by the Director of Permits and Inspections and by law enforcement agents.

(Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993)

§ 1-2-104. PERMIT PROCEDURE.

(A) No gaming event or bingo game may be operated in Frederick County until the appropriate permit has been obtained. A permit is required for any gaming event where gaming devices are used involving bets or exchanges of money or anything of value. A permit must be obtained for gaming events held at a carnival if the events meet the criteria outlined in this article.

(B) To obtain a permit to conduct a bingo game or a gaming event, the organization and operator, if applicable, must:

- (1) Jointly submit an application on a county form to the Director of Permits and Inspections accompanied by the appropriate issuance fee;

- (2) Demonstrate that it is a bona fide religious, fraternal, civic, war veterans', hospital, amateur athletic, patriotic, educational, or charitable organization, or a county volunteer fire, rescue, or ambulance company or its auxiliary. Evidence of the bona fide nature of the organization may include, but is not limited to, the nonprofit qualification as accepted by the I.R.S. under 26 U.S.C. § 501(c)(1), (3), (4), (5), (7), (8), (10), or (19) or (d);

- (3) Swear to an affidavit establishing that the organization and individuals directly responsible for the conduct of the activity have not been convicted of a gaming related misdemeanor within 5 years of the application submission or of a felony; and

(4) Identify the beneficiary of the event.

(C) The Director of Permits and Inspections will review the application and grant or deny the permit.

(1) Before issuing a permit, the Director of Permits and Inspections shall determine if the applicants meet the requirements of this article and may refer the application to the Sheriff for a determination on whether an applicant qualifies as a bona fide organization.

(2) The application and the actions of the Director of Permits and Inspections are matters of public record.

(D) If granted, the permit will entitle the organization and operator to conduct a bingo game or gaming event according to the terms of the permit and all applicable law.

(E) If denied, the organization or operator may appeal the decision as provided in § 1-2-112 of this article.

(F) The burden of proof for all permit issues shall rest with the applicant.

(G) Permits are not transferable.
(Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993)

DIVISION 2. SPECIFIC GAMING PROVISIONS

§ 1-2-105. BINGO.

(A) An organization, as defined in § 1-2-102(S), may operate a bingo game in Frederick County for the benefit of the organization or other charitable purpose.

(B) Only legal residents of Frederick County may operate a bingo game in Frederick County. Persons operating the game must be volunteers not

compensated for their efforts. However, for the Frederick County Fair only, the Frederick County Agricultural Association may sell or lease the right or concession to operate bingo to any person regardless of residence.

(C) Permit:

(1) Before conducting a bingo game in Frederick County, the operator and organization must submit an application as described in § 1-2-104 and the appropriate fee to the Department of Permits and Inspections;

(2) The operator and organization must establish that the operator of the bingo game is a Frederick County resident, unless the exception for the Frederick County Fair applies. The following may provide adequate demonstrations of residence:

(a) A voter registration card;

(b) A Maryland driver's license;

(c) Real property tax records; or

(d) Incorporation articles listing place of business as Frederick County or a principal place of business in Frederick County. A mere mailing address within the county is insufficient to establish evidence of residence.

(D) The annual permit issuance fee for bingo games in Frederick County shall be \$50.

(E) No bingo prize may have a fair market value in excess of \$5,000.
(Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993; Ord. 03-15-338, 10-7-2003)

§ 1-2-106. RAFFLES.

(A) An organization may hold a raffle for its own benefit in compliance with this article and all other applicable law, provided that:

(1) No individual may personally benefit from a raffle except for prizes awarded to participants;

(2) Only 1 major prize may be awarded at each raffle;

(3) During each calendar year, an organization may hold or receive the proceeds from a maximum of 6 raffles, limited to:

(a) Only 1 raffle where the major prize has the fair market value of more than \$5,000; and

(b) No more than 5 raffles in which the major prize is valued at \$5,000 or less.

(B) Before conducting a raffle, an organization must obtain a permit as described in § 1-2-104.

(C) The permit issuance fee for raffles to be conducted in Frederick County shall be \$50 per calendar year. The Director of Permits and Inspections shall waive this fee for a raffle if the applicant files and signs a written statement certifying that all money received from the raffle will be paid to or directly benefit the Board of County Commissioners. The applicant receiving such a fee waiver must file a report with the Department of Permits and Inspections accounting for all money received from the raffle.

(D) Each organization receiving a raffle permit shall file an annual report showing for the calendar year the number of raffles held and the fair market value of the major prize awarded for each raffle. This annual report shall be filed with the Department of Permits and Inspections by February 15 of the succeeding year.

(E) Any raffle permit issued during 1992 shall be valid until December 31, 1993. Permits issued after January 1, 1993, shall be valid for a calendar year. (Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993; Ord. 03-15-338, 10-7-2003)

§ 1-2-107. TIP JARS AND PUNCHBOARDS.

(A) In Frederick County, a tip jar or punchboard may be operated for the benefit of an organization only by:

(1) Uncompensated members of an organization located within the county; or

(2) An establishment or proprietor licensed to serve food and alcoholic beverages for consumption on the premises.

(B) Before a tip jar or punchboard is operated, the operator and the organization must jointly apply for and obtain a permit as described in § 1-2-104.

(C) The issuance fee for a tip jar and punchboard permit shall be:

(1) \$165 for a 1-year permit if the tip jar or punchboard will be operated solely by the organization for its own behalf on its own premises or premises owned by another organization;

(2) According to the following schedule if § 1-2-107(C)(1) does not apply:

(a) \$750 for a 1-year permit;

(b) \$175 for a 3 month permit;

(c) \$110 for a carnival permit, event not to exceed 10 days;

(d) \$75 for a single-occurrence permit, event not to exceed 3 days.

(D) An issuance fee also shall be due on each bag sold for tip jar use and on each punchboard.

(1) The fee shall be as follows:

(a) \$2 per bag or punchboard if the projected profit from the tip jar or punchboard is from \$0 to \$100;

(b) If the projected profit from the tip jar or punchboard is over \$100, the fee shall be \$2 per bag or punchboard for each \$100 (or fraction thereof) of projected profit from the tip jar or punchboard.

(2) The distributor shall pay the county the fee for each sale of a tip jar bag or punchboard to operators or organizations for use within Frederick County during a calendar month.

(3) Each distributor shall submit the appropriate fee to the Department of Permits and Inspections along with the monthly reports required in § 1-2-110(F).

(4) The fee shall be submitted by check or money order identifying the distributor by name and license number.

(5) A distributor's failure to timely pay this fee shall constitute a violation of the gaming laws subjecting the distributor to each of the penalties provided in § 1-2-111.

(E) (1) The organization must receive a minimum of 70% of the proceeds from a tip jar or punchboard. The operator may receive from the proceeds its expenses, but only up to 30% of the proceeds.

(2) Permissible expenses for which the operator may be reimbursed are:

(a) Permit fee;

(b) Wages of the person conducting the tip jar or punchboard;

(c) Cost of producing the required monthly reports;

(d) Cost of purchasing the tip jar/punchboard.

(F) The operator must submit monthly reports to the Director of Permits and Inspections within 45 days

after the end of each month detailing the number of bags purchased during that calendar month, the number of bags used, proceeds, payouts, expenses, and amounts paid to the organization in the format required by the Director of Permits and Inspections.

(G) If the organization is not the operator, the organization shall submit an annual report detailing the funds received from the operator on a monthly basis from tip jars and punchboards. The report shall be submitted to the Director of Permits and Inspections by February 15 for the preceding calendar year in the form required by the Director of Permits and Inspections.

(H) All tip jars and punchboards must be obtained only from a distributor licensed by the county to distribute gaming devices.

(I) The permit must be displayed conspicuously with the tip jar or punchboard.

(J) An organization may not have or be a signatory on more than 3 permits to operate tip jars or punchboards off its premises.

(K) A tip jar or punchboard may not be played by anyone under 18 years of age. Operators are responsible for ensuring that all players meet the minimum age requirement.

(L) All records regarding punchboards or tip jars must be made available for inspection by the Director of Permits and Inspections and by law enforcement agents.

(M) More than 1 tip jar or punchboard may be operated at the same location, but a separate permit is required for each different location at which a punchboard or tip jar is operated.

(N) The cost of the tip jar or punchboard itself may be paid either by the operator or the organization. (Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993; Ord. 03-15-338, 10-7-2003)

§ 1-2-108. GAMING EVENTS OTHER THAN BINGO, RAFFLES, TIP JARS, PUNCHBOARDS.

(A) An organization may hold a gaming event, other than a bingo game, raffle, tip jar, or punchboard, for its own benefit in compliance with this article and all other applicable law, provided that:

(1) Only 1 major prize may be awarded at each gaming event;

(2) During each calendar year, an organization may hold or receive the proceeds from only 1 event where the major prize has the fair market value of \$5,000 or more.

(B) Before conducting any gaming event, the organization must obtain a permit as described in § 1-2-104.

(C) The annual permit issuance fee for a gaming event other than a bingo game, raffle, tip jar, or punchboard shall be \$50.

(Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993; Ord. 03-15-338, 10-7-2003)

§ 1-2-109. VOLUNTEER FIRE, RESCUE, AMBULANCE, OR AUXILIARY GROUPS.

(A) A volunteer fire, rescue, ambulance or auxiliary group (as defined in § 1-2-102) is subject to the fee schedule provided in this section notwithstanding any other provision of this article.

(B) A volunteer fire rescue, ambulance, or auxiliary group shall pay \$100 for an annual gaming permit entitling it to operate for its own benefit:

(1) Bingo games;

(2) Tip jars and punchboards in conjunction with bingo games;

(3) Raffles, to a maximum of 6 in a calendar year;

(4) Any gaming event as specified in § 1-2-108;

(5) Any or all of the above for a 1 week period once annually in conjunction with a volunteer fireman's carnival.

(C) Any permit issued under this section during 1992 shall be valid until December 31, 1993. Permits issued after January 1, 1993, shall be valid for a calendar year.

(D) Tip jars and punchboards not operated by the organization but for its benefit shall be subject to the issuance fee established in § 1-2-107(C)(2).

(E) The issuance fee provided in § 1-2-107(D) shall be due on all tip jar bags and punchboards used by a volunteer fire, rescue, ambulance or auxiliary group.

(Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993)

§ 1-2-110. DISTRIBUTOR LICENSES.

(A) Only a distributor licensed by the county may sell tip jars or punchboards for use in Frederick County.

(B) A distributor is ineligible to apply for or possess a license if the applicant or any of the applicant's officers, directors, or employees directly responsible for the distribution of tip jars or punchboards has been:

(1) Convicted of a felony; or

(2) Convicted of a misdemeanor in any way related to gambling or gaming within 5 years of the submission of the license application.

(C) To obtain a distributor's license, a person must annually submit the appropriate application to the county agency along with the license fee. The applicant must also establish that it maintains an office in Frederick County.

(D) The annual license fee for a distributor shall be \$2,000.

(E) Each distributor must maintain records for at least 5 years showing all sales, including, but not limited to:

(1) The names and addresses of the purchasers;

(2) Date of the sale; and

(3) Serial numbers of the tip jars or punchboards sold.

(F) Each distributor shall submit monthly reports and the appropriate issuance fee to the Director of Permits and Inspections within 45 days after the end of each month.

(1) The reports shall detail the number of bags sold, the name and address of each purchaser of each bag, the date of sale, and the serial numbers of each bag sold.

(2) The issuance fee will be determined as described in § 1-2-107(D).

(Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993; Ord. 03-15-338, 10-7-2003)

§ 1-2-111. PENALTIES.

(A) A violation of the provisions of §§ 1-2-101 through 1-2-110 or any gaming law is subject to 1 or more of the following actions:

(1) A fine of up to \$500;

(2) A suspension of the offender's permit or license;

(3) Revocation of the offender's permit or license;

(4) The denial of a new permit to the offender for a period of up to 3 years following the offense.

(B) A permit or license may be denied, suspended, or revoked if an applicant makes a materially false statement on or fraudulently completes or submits a permit or license application or any other document submitted to the county related to gaming.

(C) The Director of Permits and Inspections has the authority to cite all gaming law violations, other than criminal violations, and impose the penalties established in this section.

(1) For violations cited by the Director of Permits and Inspections, the permit or license holder shall have 30 days from the date of notification of the violation to request a hearing on the violation before the Board of Gaming Appeals.

(2) If an appeal is filed with the Board of Gaming Appeals, all penalties will be stayed pending resolution of the appeal unless the Director of Permits and Inspections makes a specific written finding that danger to the public health, safety or welfare will occur during the pendency of the appeal, in which event the penalty may be imposed pending resolution of the appeal.

(D) If applicable, the Director of Permits and Inspections shall notify the County Liquor Commission of a violation of the provisions of §§ 1-2-101 through 1-2-110 for the Board's consideration under Md. Code Ann., Art. 2B, § 56(b)(9).

(E) Any person who knowingly violates any provision of §§ 1-2-101 through 1-2-110 is guilty of a criminal misdemeanor and on conviction subject to a fine not to exceed \$1,000, or imprisonment not to exceed 6 months, or both.

(F) Each day of violation constitutes a separate offense subject to any or all penalties imposed in this section.

(G) The penalties imposed in this section are in addition to all others imposed by law.

(Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993)

§ 1-2-112. APPEALS.**§§ 1-2-114 – 1-2-120. RESERVED.**

Any applicant may appeal the denial or revocation of a license or permit to the Board of Gaming Appeals.

(Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993)

§ 1-2-113. BOARD OF GAMING APPEALS.

(A) There shall be a Board of Gaming Appeals.

(B) The Board of County Commissioners shall appoint the 3 members of the Board of Gaming Appeals.

(C) Composition and tenure:

(1) Each member will serve a 3 year term;

(2) Of the initial appointees, 1 member will serve 1 year, the second will serve 2 years, and the third will serve the full 3-year term;

(3) Each member shall be eligible to serve only 2 consecutive 3-year terms;

(4) Each member shall serve until a successor is appointed;

(5) Members of the Board of Gaming Appeals shall receive no compensation for their services but may receive reimbursement for expenses actually and necessarily incurred by them in the performance of their duties within the amount appropriated for such purposes;

(6) Two members of the Board of Gaming Appeals shall constitute a quorum.

(D) The Board of Gaming Appeals may adopt reasonable rules and regulations to govern its procedures.

(Ord. 92-21-056, 9-22-1992; Ord. 93-02-066, 1-19-1993)